SINGLE BENCH (3)

(1)

C. S. 100

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

WRIT PETITION NO. 5136 OF 2005

PETITIONER:

G.S. Vineyard Association,
(A Society registered under the Societies Registration Act),
Through its General Secretary Arun Pannalal, S/o Late Shri H.R. Pannalal, Aged abut 54 years,
R/o Neelanchal Vihar,
Shankar Nagar, Raipur,
Chhattisgarh.

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VERSUS

RESPONDENTS:

1. State of Chhattisgarh,
Through the Secretary,
Department of Home,
D.K.S. Bhawan, Mantralaya,
Raipur, Chhattisgarh.

5226/05
N.K.S. Singh
24.10.05

2. The Secretary,
Department of Revenue,
State of Chhattisgarh,
D.K.S. Bhawan, Mantralaya,
Raipur, Chhattisgarh.

3. Sub Divisional Magistrate (City),
Raipur, Chhattisgarh.

4. Station House Officer,
Police Station: Civil Lines,
Raipur, Chhattisgarh.

5. Sandeep Tiwari,
S/o Shri Ramsharan Tiwari,
R/o A-4, P.B. Apartments,
G.E. Road, Tatibandh,
Raipur, Chhattisgarh.

6. Rakesh Jairaj, S/o Shri R.H. Jairaj,
Aged about 36 years, R/o Lodhipara,
Raipur, Chhattisgarh.

WRIT PETITION UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS CERTIORARI ETC., OR DIRECTION (S) / ORDER (S) IN THE LIKE NATURE ETC.

(55)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ....W.P.5136/.... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	7-11-2005 Mr. Rajeev Shrivastava, counsel for the petitioner. Mr. Y.S. Thakur, Govt. Advocate for the State/respondents No.1 to 4. The petitioner has preferred this writ petition under Articles 226 & 227 of the Constitution of India, with the prayer that the Court may kindly be pleased to call for the entire records leading to the impugned action of the respondents, to direct the respondents to remove the lock and further direct not to infringe with the fundamental rights of the petitioner Association granted to it under Articles 25, 26 & 29 of the Constitution of India. The case of the petitioner is that the petitioner is a registered Society of the followers of the Christian religion and the followers have constituted a Society styled as Guru Shishya Vineyard Association. The said Association had constructed a church and on 14-8-2005, some unsocial elements had entered into the church and destroyed the sacred sign of crusade. A report was lodged to this extent, but no action has been taken against the culprits. On 11-9-2005, respondent No.3 Sub Divisional Magistrate, Raipur directed to put a lock on the gate of the church. On enquiry, the petitioner came to know that on the behest of respondents No.5 & 6, proceeding has been initiated by respondents No.3 & 4. I have heard Mr. Rajeev Shrivastava, learned counsel for the petitioner, on admission. Mr. Rajeev Shrivastava while referring order dated 6-9-2005 (Annexure P-10) passed by the S.D.M. while exercising power under Section 145 of the Cr.P.C. argued that the said order is perverse in view of the fact that in para 4 of the order itself it has been mentioned that the Station House Officer, Police Station: Civil Lines, Raipur, has reported that the land in	

SP/FS/2005 - 20,000

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(S6)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P.5136/ ..... **सन् 200** 5

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
1	question is in possession of the Christian community and it has been reported that prayer is being performed by the said community at the disputed place. Therefore, in view of the above fact, the order impugned passed by the S.D.M. is perverse and same is contrary to the provisions of Section 145 of the Cr.P.C. Learned counsel further argued that as the fundamental right of the members of the Association has been infringed, therefore, the prayer asked for be granted. The impugned order passed by the S.D.M. is revisable and the petitioner has alternative remedy to move revision before the Sessions Court. As far as interference by respondents No.5 & 6 is concerned, the petitioner has already lodged the report at the Police Station and if the Police is not taking any action, in that case, the petitioner Association is within its right to file criminal complaint before the Court of competent jurisdiction, if so advised. In view of the above facts, the petitioner is entitled to take appropriate proceedings as permissible under the law. It is not a fit case where the extra ordinary jurisdiction should be invoked. The petition stands disposed of, at the admission stage itself. Consequently, M.(W.)P.No.4158/2005 and I.A.No.9001/2005 also stand disposed of. **Sd/-** **L.C. Bhadoo** **Judge**	

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16.11.05